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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/234,036	01/19/1999	SERGE AYER	014442-000037	6571
24239 7590 03/09/2010 MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709				
EXAMINER LEE, MICHAEL				
ART UNIT		PAPER NUMBER		
2622				
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03/09/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/234,036

Applicant(s)

AYER, SERGE

Examiner

M. Lee

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27 and 33-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-55 is/are allowed.
- 6) ☒ Claim(s) 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/02)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okada et al. (JP09166609a).

Regarding claim 27, Okada discloses a composite image formed of two images from different time period (note Figures 2-4), and a counting means (12) for counting the number of frames between two predetermined vertical lines (A, B). Okada differs from instant invention is by measuring a time lapse in between two fixed points (A and B) of a moving object, while the instant invention measures a time lapse of two moving object moving pass a fixed point. Although the objectives of the two are different, Okada has all the means for carrying out the objective of the instant invention. For instance, the trigger points and positions in Okada can be modified readily by modifying the control timing of CPU12, and by modifying the trigger points or position, the image processor of Okada can be used as a start and stop timer when only a single trigger point is used. This can be realized by examining the composite image as illustrated in Figures 2-4. That is if only trigger point A is used in Figure 2, while trigger point B is eliminated, Okada is effectively a time counter for counting a time lapse of two consecutively moving objects when passing through the trigger point A. By using video image to

calculate time lapse, Okada strides to improve the old and user operated start/stop timer because the former is much more precise and convenient than the latter. The time lapse is measured conveniently in Okada without the need of user to hit a start and stop button when an object crosses a fixed point. It is all done electronically and instantaneously. Hence, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Okada to function as a start/stop timer so that the disadvantages of conventional timers could be eliminated.

Allowable Subject Matter

3. Claims 33-55 are allowed.

Terminal Disclaimer

4. The terminal disclaimer filed on 12/23/09 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent Number 6,320,624 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Lee whose telephone number 571-272-7349. The examiner can normally be reached on Monday through Thursday from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran, can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M. Lee/
Primary Examiner
Art Unit 2622